

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application)	Examiner: Patrick Neal Butler
ERIC E. LENNON ET AL.)	
)	Art Unit: 1732
Serial No.: 10/694,153)	
)	Deposit Account: 04-1403
Filed: October 27, 2003)	
)	Customer No.: 22827
Confirmation No.: 3016)	

Title: UNIFORM NONWOVEN MATERIAL AND LAMINATE AND PROCESS
THEREFOR

APPELLANT'S REPLY APPEAL BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR § 41.41, appellant hereby submits for the caption
application this reply appeal brief to the Examiner's Answer of November 9, 2009.

2. RELATED APPEALS AND INTERFERENCES:

The applications for the two appeals identified in the Examiner's Answer differ from the present application. There are different claims and different inventive entities. The present application does not claim benefit to either of the two identified applications involved in the prior appeals. Neither of the two identified applications involved in the prior appeals claims benefit to the present application. Neither of the two identified applications involved in the prior appeals was cited in any non-statutory obviousness-type double patenting rejection against any claim of the present application.

6. GROUND OF REJECTION TO BE REVIEWED ON APPEAL:

Appellant would point out that translations of WO 00/0065134 A1, FR 2825381 A1 and WO 02/34990 A1 were not part of the record on appeal. Thus, Appellant submits that to the extent that there are any material differences between these translations and the documents relied upon in the Final Office Action for citation and translation, the finality of the office action on appeal must be withdrawn.

The non-statutory obviousness-type double patenting rejection of claims 1, 11 and 23 over claim 1 of co-pending application No. 10/687,006 was a provisional rejection in the Final Office Action of March 3, 2009, and the Advisory Action of June 2009 did not change this provisional status.

7. REPLY ARGUMENT:

Had the provisional status of the non-statutory obviousness-type double patenting rejection of claims 1, 11 and 23 over claim 1 of co-pending application No.

10/687,006 been withdrawn, applicants respectfully would have traversed the rejections of claims 1, 11 and 23 on the ground of nonstatutory obviousness-type double patenting over claim 1 of U S Patent No. 7,504,060 as follows. Claim 1 of U S Patent No. 7,504,060 fails to suggest to the person of ordinary skill, increasing the velocity of the fibers by subjecting the fibers to a pneumatic attenuation force in a drawing slot, and after the fibers exit the drawing slot and before subjecting the fibers to electrostatic charge, passing the fibers through a diffusion chamber where the fibers reduce their velocity, as required by applicants' claim 1. Claim 1 of U S Patent No. 7,504,060 fails to suggest to the person of ordinary skill, increasing the velocity of the fibers by subjecting the fibers to a pneumatic attenuation force in a drawing slot, and after the fibers exit the drawing slot, passing the fibers through a diffusion chamber where the velocity of the fibers becomes reduced and where the fibers are subjected to electrostatic charge, as required by applicants' claim 11. Claim 1 of U S Patent No. 7,504,060 fails to suggest to the person of ordinary skill, increasing the velocity of the fibers by subjecting the fibers to a pneumatic attenuation force in a drawing slot, using an electrostatic charging unit located on one of the drawing slot sidewalls to subject the fibers to electrostatic charge and after the fibers have been subjected to electrostatic charge, passing the fibers through a diffusion chamber where the velocity of the fibers becomes reduced, as required by applicants' claim 23.

As a general comment, the prior art-based arguments advanced in the Examiner's Answer suffer from two repeated themes. First, some of the arguments attempt to slice and dice the claim and ignore the Section 103 requirement to demonstrate that the claim as a whole is obvious to the person of ordinary skill.

Secondly, some of the arguments ignore limitations in the claims by either misinterpreting the claim language to fit what the reference discloses or misreading what the reference discloses.

A. Claim 23 complies with the written description requirement of 35 U.S.C. 112, first paragraph.

Perhaps the most helpful fact to point out here in reply to the discussion on pages 17 – 18 of the Examiner's Answer is that the original "wherein clause" of claim 23 in the application as originally filed stated (emphasis added):

wherein **the** pneumatic attenuation force is provided by attenuation air entering the drawing slot **only** from the drawing slot sidewall opposing the drawing slot sidewall upon which the electrostatic charging unit is located.

It is **the** pneumatic attenuation force, not **a** pneumatic attenuation force. Since there is only one pneumatic attenuation force, and since that one force is provided by attenuation air entering the drawing slot **only** from the drawing slot sidewall opposing the drawing slot sidewall upon which the electrostatic charging unit is located, the specification supports the use of "consisting" in claim 23.

B. Claims 1 and 3 are patentable under 35 U.S.C. 103(a) over Haynes '071 in view of Magglo '134 and Epstein et al.

Lines 6-15 on page 18 of the Examiner's Answer contend:

Appellant argues in section 7 B, pages numbered 14-17 by Appellant that Haynes '071's lack of teaching Claim 1's limitation of at least two oppositely directed charging units and a charging unit being an opposing target and emitter is not met by Epstein since Epstein's oppositely directed charging units fails to include targets. In response, the Examiner relies upon Haynes '071's teaching of opposing components 20 and 22 (target and emitter) of a charging unit (see Haynes, '071, fig. 1), and the Examiner relies upon Epstein for teaching oppositely directed charging units (see Epstein figs. 7 and 8). Such teachings appear to

be acknowledged by Appellant's arguments. Thus, further discussion of Haynes '071 not teaching oppositely directed charging units and Epstein not teaching the components of a charging unit is moot.

This paragraph of the Examiner's Answer contains misstatements about appellant's positions and ignores limitations of the claims.

Claim 1 requires two or more charging units and the charging units must be oppositely directed. Haynes '071 components 20 and 22 constitute a single charging unit. Thus, Haynes does not teach oppositely directed charging units, plural.

Moreover, as pointed by appellant, in Epstein there are no opposed targets. Per appellant's claim 1, "oppositely directed" means with at least one emitter device on each opposite side of the fibers so that an electrostatic charge is generated from opposite directions across the traveling path of the plurality of fibers. Epstein discloses an arrangement that is either linear or separated by 120 degrees rather than opposing or opposite arrangements separated by 180 degrees as required by appellant's claim 1. Thus, the above discussion in the Examiner's Answer fails to address the deficiencies noted by appellant, much less rendering appellant's arguments moot.

D. Claims 4 and 5 are patentable under 35 U.S.C. 103(a) over Haynes '071 in view of Maggio '134 and Epstein et al as applied to claim 1, and further in view of Haynes '379.

Haynes '379 does not overcome the deficiency in the combination of Haynes '071 in view of Maggio '134 and Epstein et al as applied to claim 1. Haynes '379 does not provide an electrostatic charge emitter on each opposite side of a stream of fibers for the purpose of improving the degree of separation of the fibers or imposing a preferential orientation on the fibers.

E. Claim 11 is patentable under 35 U.S.C. 103(a) over Maggio '381 in view of Haynes '071 and Epstein et al.

Lines 12-22 on page 20 and lines 1-2 on page 21 of the Examiner's Answer contend:

Appellant argues in sections 7 E and 7 I, pages numbered 24-27 and 36 by Appellant (and similar to Appellant's Arguments in section 7 B, pages numbered 14-17 by Appellant) that Maggio '381's lack of teaching Claim 11's limitation of two or more oppositely directed charging units and a charging unit being an opposing target and emitter on opposite sidewalls is not met by Epstein since Epstein's oppositely directed charging units fails to include targets. In response, the Examiner relies upon the teaching of Maggio '381 in view of Haynes '071 for teaching opposing components 20 and 22 (target and emitter) of a charging unit (see Haynes, '071, fig. 1), and the Examiner relies upon Epstein for teaching oppositely directed charging units (see Epstein figs. 7 and 8). Such teachings appear to be acknowledged by Appellant's arguments. Thus, further discussion of Maggio '381 in view of Haynes '071 not teaching oppositely directed charging units and Epstein not teaching the components of a charging unit is moot.

This paragraph of the Examiner's Answer contains misstatements about appellant's positions and ignores limitations of the claims.

Claim 11 requires two or more charging units and the charging units must be oppositely directed. Haynes '071 components 20 and 22 constitute a single charging unit. Thus, Haynes does not teach oppositely directed charging units, plural.

Moreover, as pointed by appellant, in Epstein there are no opposed targets. Per appellant's claim 11, "oppositely directed" means with at least one emitter device on each opposite side of the fibers so that an electrostatic charge is generated from opposite directions across the traveling path of the plurality of fibers. Epstein discloses an arrangement that is either linear or separated by 120 degrees rather than opposing

or opposite arrangements separated by 180 degrees as required by appellant's claim

11. Thus, the above discussion in the Examiner's Answer fails to address the deficiencies noted by appellant, much less rendering appellant's arguments moot.

F. Claims 11 and 15 are patentable under 35 U.S.C. 103(a) over Schmit in view of Epstein et al.

Contrary to the factual misstatement at lines 19 – 20 on page 21 of the Examiner's Answer, Epstein et al does not disclose "oppositely directed charging units" as that phrase must be interpreted in appellant's claims 11 and 15. The explanation below also replies to the Examiner's Answer Response to Arguments in appellant's original brief at Sections 7H and 7J.

The paragraph in line 15 on page 21 through line 5 on page 22 of the Examiner's Answer contends:

Appellant argues in sections 7 F, 7 H and 7 J, pages numbered 30-33, 35, and 37 by Appellant (and similar to Appellant's Arguments in section 7 B, pages numbered 14-17 by Appellant), that Schmit's lack of teaching Claim 11's limitation of two or more oppositely directed charging units and a charging unit being a target and emitter on opposite sidewalls is not met by Epstein since Epstein's oppositely directed charging units fails to include targets. In response, the Examiner relies upon the teachings of Schmit's for teaching one electrostatic charging unit with oppositely directed components 11 and 8, with 11 located upon a diverging sidewall 15 and 8 located on the other diverging sidewall 14 (see Schmit, [0006], [0020], [0021], and figs. 2 and 3), and the Examiner relies upon Epstein for teaching oppositely directed charging units (see Epstein figs. 7 and 8). Such teachings appear to be acknowledged by Appellant's arguments. Thus, further discussion of Schmit not teaching oppositely directed charging units and Epstein not teaching the components of a charging unit is moot.

This paragraph of the Examiner's Answer contains misstatements about appellant's positions and ignores limitations of the claims.

Claim 11 requires two or more charging units and the charging units must be oppositely directed. The Examiner's Answer admits that Schmit components 8 and 11 constitute a single charging unit. Thus, Schmit does not teach oppositely directed charging units, plural.

Moreover, as pointed by appellant, in Epstein there are no opposed targets. Per appellant's claim 1, "oppositely directed" means with at least one emitter device on each opposite side of the fibers and one target opposite each emitter on each opposite side of the fibers so that an electrostatic charge is generated from opposite directions across the traveling path of the plurality of fibers. Epstein discloses an arrangement that is either linear or separated by 120 degrees rather than opposing or opposite arrangements separated by 180 degrees as required by appellant's claim 11. Thus, the above discussion in the Examiner's Answer fails to address the deficiencies noted by appellant, much less rendering appellant's arguments moot.

1. Claim 15 is patentable under 35 U.S.C. 103(a) over Schmit in view of Epstein et al.

Schmit never describes in words nor depicts in drawings, any unvented embodiment. Indeed, Schmit only discloses its preferred embodiment, which is vented.

K. Claim 23 is patentable under 35 U.S.C. 103(a) over Maggio '134 in view of Davis et al.

The Examiner's Answer fails to contest the fact that Maggio '134 does not have an electrostatic charging unit on one of the sidewalls **of the drawing slot F**. Instead, the Examiner's Answer argues that the Maggio '134 **diffuser** is a **drawing slot**. This is argument thus runs contrary to the express meaning of the terms used in the Maggio

'134 reference.

Plainly, the Maggio '134 electrostatic charging unit (**rail 11**) is only disposed beneath the **drawing slot "F"** or **in the diffuser 10**, but **not in the slot F**. Accordingly, this rejection lacks an element of claim 23 and therefore fails to present a prima facie case under Section 103(a) and is deficient on this basis alone.


Conclusion

For the reasons explained above, applicants respectfully submits that claims 1 – 5, 11, 13 – 16, and 23 are patentable in accordance with the relevant provisions of the statute, the rejections should be reversed, and claims 1 – 5, 11, 13 – 16, and 23 should be allowed to issue in a patent.

Respectfully submitted,

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